

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**HERBERT LOPEZ,
ID # 01824978,**

Petitioner,

vs.

**LORIE DAVIS, Director,
Texas Department of Criminal
Justice, Correctional Institutions Division,
Respondent.**

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No. 3:15-CV-3856-N (BH)

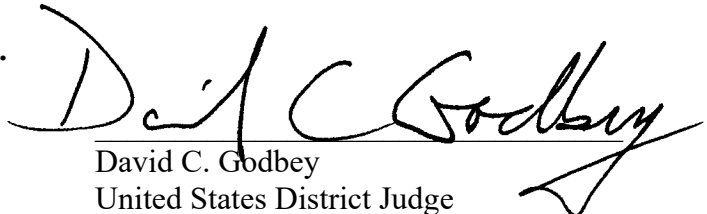
**ORDER OF THE COURT ON RECOMMENDATION REGARDING
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL**

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The motion for leave to proceed *in forma pauperis* on appeal is GRANTED.
- (X) The motion for leave to proceed *in forma pauperis* on appeal is DENIED for the following reasons:
- (X) The petitioner is not a pauper. A review of the certificate of inmate trust account shows that he has \$1,162.41 in funds. Given this financial information, the Court concludes that the petitioner will not suffer undue financial hardship after payment of the \$505.00 filing fee. *See Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988).

Although this Court has denied leave to proceed *in forma pauperis* on appeal, the defendant may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). *See* Fed. R. App. P. 24(a)(5).

SIGNED this 18th day of May, 2018.


David C. Godbey
United States District Judge